

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 484

Introduced by Assembly Member Gipson

February 23, 2015

~~An act to amend Section 281 of the Harbors and Navigation Code, relating to navigation.~~ *An act to amend Sections 63088.5 and 63089.5 of, to add Chapter 2.6 (commencing with Section 13996.85) to Part 4.7 of Division 3 of Title 2 of, to add Article 8.5 (commencing with Section 63089.85) to Chapter 6 of Division 1 of Title 6.7 of, and to add Chapter 7 (commencing with Section 63090) to Division 1 of Title 6.7 of, the Government Code, relating to state government, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 484, as amended, Gipson. ~~Navigation rules: meeting vessels.~~ *Trade promotion of California ports: California Export Finance Office.*

(1) Existing law requires the Director of the Governor's Office of Business and Economic Development, known as GO-Biz, to provide to the Legislature, not later than February 1, 2019, a strategy for international trade and investment that, at a minimum, includes specified information, goals, objectives, and actions related to the promotion of trade.

The bill would require the director to convene, no later than February 1, 2016, a statewide business partnership for the promotion of trade for California ports and to explore greater utilization of California ports, that would be required to advise the director for those purposes, as prescribed.

(2) *The Bergeson-Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, within GO-Biz, to make loans and provide other assistance to public and private entities for various types of economic development projects, among other things. The bank is governed by a board of directors and under the direction of an executive director. The bank administers the California Small Business Finance Center that administers programs to assist businesses seeking new capital resources. The Small Business Financial Assistance Act of 2013 continues in existence the California Small Business Expansion Fund (expansion fund), a continuously appropriated fund which includes General Fund moneys, and authorizes all or a portion of the funds in the expansion fund to be paid out to a financial institution or financial company that will establish a trust fund and act as a trustee of the funds, as specified. The Small Business Financial Assistance Act of 2013 authorizes the program manager, as defined, to create one or more accounts in the expansion fund and the trust fund for corporations participating in one or more specified programs.*

The Small Business Financial Assistance Act of 2013 authorizes the bank board to continue programs funded by the expansion fund or to establish one or more programs administered by the bank or under contract with small business financial development corporations. Existing law further authorizes those programs to include specific types of financial products, including loan guarantees and surety bond guarantees. The expansion fund may be used to pay defaulted loan guarantee or surety bond losses, or other financial product defaults or losses, to fund direct loans and other debt instruments, to pay administrative costs of corporations, to pay state support and administrative costs, and to pay costs to protect a real property interest in a financial product default.

This bill would authorize the bank to include insurance, coinsurance, and other forms of surety among the types of financial products included in programs administered by the bank, as prescribed. The bill would authorize the bank to act as agent for creditworthy California growers, manufacturers, and other exporters, to sell approved and insured accounts receivable to qualified parties, and function as a clearinghouse for the collection and disbursement of funds relative to those sales. By expanding the activities of the bank that are funded by continuous appropriation from the expansion fund, this bill would make an appropriation.

The bill would establish the California Export Finance Office (office) within the California Small Business Finance Center, within the bank, to be headed by the executive director, for the purpose of expanding employment and income opportunities for Californians through increased exports of California goods, services, and agricultural commodities. The bill would authorize the office to coordinate state export activities with international, federal, and other state entities and disseminate information to California exporters.

The bill would also establish within the office an 11-member California Export Finance Advisory Board (export advisory board), composed of specified state officers and individuals appointed by the Governor and the Legislature, to serve 2-year terms at the pleasure of their appointing authority, as specified. The bill would require the export advisory board, among other duties, to advise on specified export-related programs and issue an annual report.

The bill would require the office to comply with existing laws relating to open and public meetings and access to public records.

~~Existing law requires that, whenever any vessel, whether a steam vessel or sailing vessel, proceeding in one direction, meets another vessel, whether a steam vessel or sailing vessel, proceeding in the opposite direction, so that if both were to continue their respective courses they would pass so near as to involve the risk of a collision, each vessel give right rudder, so as to pass on the port side of each other.~~

~~This bill would make a nonsubstantive change in those provisions.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Trade is critical to California's prosperity by fueling*
- 4 *economic growth, supporting and creating jobs, and raising living*
- 5 *standards. In 2012, California's three customs districts led the*
- 6 *nation by processing \$579 billion in two-way trade value. Exports*
- 7 *have been the second largest contributor to our nation's gross*
- 8 *domestic product since the recession ended.*
- 9 (b) *California's success as a trade leader cannot be taken for*
- 10 *granted, given the weakening of the national and global economies,*
- 11 *the European debt crisis, and the increased competition of Gulf*

1 *Coast, East Coast, and Mexican ports preparing to compete with*
2 *California's market share as the expanded Panama Canal becomes*
3 *operational in 2015.*

4 *(c) There are substantial opportunities that can strengthen and*
5 *grow California's trade sector and increase jobs. As the gateway*
6 *to China, India, and emerging countries, California is well*
7 *positioned to access China, India, and emerging nations that are,*
8 *or are becoming, large markets for exported goods and services.*

9 *(d) Exports support jobs for California workers and more than*
10 *one million direct and indirect jobs. Exports sustain nearly 60,000*
11 *businesses in the state, of which 96 percent are small- to*
12 *medium-sized businesses.*

13 *(e) Many small- and medium-sized California businesses and*
14 *agricultural enterprises, both those that are already exporting and*
15 *want to expand their business and those that are new to exporting,*
16 *would benefit from financing and technical assistance.*

17 *(f) California-based small- and medium-sized exporters were*
18 *assisted from 1985 to 2003, inclusive, under a state program*
19 *designed to work with federal, state, and private institutions to*
20 *provide California exporters with information, technical assistance,*
21 *and financial resources, but the state program ceased when the*
22 *Technology, Trade, and Commerce Agency was eliminated for*
23 *budgetary reasons in 2004 by Chapter 229 of the Statutes of 2003.*

24 *(g) Reestablishing the state program will expand job*
25 *opportunities for California's workforce by increasing exports of*
26 *California goods, services, and agricultural commodities through*
27 *the provision of information, technical assistance, and financial*
28 *support to California exporters.*

29 *SEC. 2. Chapter 2.6 (commencing with Section 13996.85) is*
30 *added to Part 4.7 of Division 3 of Title 2 of the Government Code,*
31 *to read:*

32
33 *CHAPTER 2.6. TRADE PROMOTION OF CALIFORNIA PORTS*
34

35 *13996.85. The Director of the Governor's Office of Business*
36 *and Economic Development shall convene, no later than February*
37 *1, 2016, a statewide business partnership for promotion of trade*
38 *for California ports and to explore greater utilization of California*
39 *ports, as follows:*

1 (a) *The business partnership shall include, but is not limited to,*
2 *representatives from ports of entry, ocean carriers, marine terminal*
3 *operators, warehouse operators, railroads, trucking companies,*
4 *labor representatives, and foreign trade zones, representatives of*
5 *environmental groups, and shippers, specifically including*
6 *agricultural exporters, manufacturers, postconsumer secondary*
7 *material handlers, and retailers.*

8 (b) *The business partnership shall advise the Director of the*
9 *Governor's Office of Business and Economic Development on*
10 *promoting trade for California ports while increasing the use of*
11 *California ports of entry, and ways to increase the opportunity for*
12 *growth and trade activity.*

13 SEC. 3. *Section 63088.5 of the Government Code is amended*
14 *to read:*

15 63088.5. (a) There is within the Governor's Office of Business
16 and Economic Development the California Infrastructure and
17 Economic Development Bank, which shall, among other things,
18 administer the California Small Business Finance Center that
19 administers programs to assist businesses seeking new capital
20 resources, including, but not limited to, the Small Business Loan
21 Guarantee Program.

22 (b) Pursuant to this chapter and Chapter 1 (commencing with
23 Section 14000) of Part 5 of Division 3 of Title 1 of the
24 Corporations Code, the bank board may continue programs funded
25 by the *California* Small Business Expansion Fund or establish one
26 or more programs administered by the bank or under contract with
27 small business financial development corporations. Programs
28 established pursuant to this chapter or Chapter 1 (commencing
29 with Section 14000) of Part 5 of Division 3 of Title 1 of the
30 Corporations Code may include the following types of financial
31 products:

32 (1) Loan guarantees and other credit enhancements.

33 (2) Direct loans and other debt instruments.

34 (3) Disaster loan guarantees.

35 (4) Surety bond guarantees.

36 (5) *Insurance, coinsurance, and other forms of surety.*

37 (c) In all of their state-funded programs, the corporations shall,
38 to the extent practicable, be complementary to, and not competitive
39 with, commercial lenders and other state and federal programs.

1 (d) In carrying out this chapter the program manager, the
2 executive director, and the bank board may call on the California
3 Small Business Board for advice and recommendations. All actions
4 by the California Small Business Board are advisory.

5 (e) The California Small Business Board may also advise the
6 Governor and the Small Business Advocate regarding issues and
7 programs affecting California's small business community,
8 including, but not limited to, business innovation and expansion,
9 export finance, state procurement, management and technical
10 assistance, venture capital, and financial assistance.

11 *SEC. 4. Section 63089.5 of the Government Code, as added*
12 *by Section 4 of Chapter 537 of the Statutes of 2013, is amended*
13 *to read:*

14 63089.5. (a) There is hereby continued in existence in the State
15 Treasury the California Small Business Expansion Fund. All or a
16 portion of the funds in the expansion fund may be paid out, with
17 the approval of the Department of Finance, to a financial institution
18 or financial company that will establish a trust fund and act as
19 trustee of the funds.

20 (b) The expansion fund and the trust fund shall be used for the
21 following purposes:

22 (1) To pay defaulted loan guarantee or surety bond losses, or
23 other financial product defaults or losses.

24 (2) To fund direct loans and other debt instruments.

25 (3) To pay administrative costs of corporations.

26 (4) To pay state support and administrative costs.

27 (5) To pay those costs necessary to protect a real property
28 interest in a financial product default.

29 (c) The expansion fund and trust fund are created solely for the
30 purpose of receiving state, federal, or local government moneys,
31 and other public or private moneys to make loans, guarantees, and
32 other financial products that the California Small Business Finance
33 Center or a financial development corporation is authorized to
34 provide. The program manager shall provide written notice to the
35 Joint Legislative Budget Committee and to the Chief Clerk of the
36 Assembly and the Secretary of the Senate who shall provide a copy
37 of the notice to the relevant policy committees within 10 days of
38 any nonstate funds being deposited in the expansion fund. The
39 notice shall include the source, purpose, timeliness, and other
40 relevant information as determined by the bank board.

1 (d) (1) One or more accounts in the expansion fund and the
2 trust fund may be created by the program manager for corporations
3 participating in one or more programs authorized under this chapter
4 and Section 8684.2. Each account is a legally separate account,
5 and shall not be used to satisfy loan guarantees or other financial
6 product obligations of another corporation except when the
7 expansion fund or trust fund is shared by multiple corporations.

8 (2) The program manager may create one or more holding
9 accounts in the expansion fund or the trust fund, or in both, to
10 accommodate the temporary or permanent transfers of funds
11 pursuant to Section 63089.3.

12 (e) The amount of guarantee liability outstanding at any one
13 time shall not exceed five times the amount of funds on deposit in
14 the expansion fund plus any receivables due from funds loaned
15 from the expansion fund to another fund in state government as
16 directed by the Department of Finance pursuant to a statute enacted
17 by the Legislature, including each of the trust fund accounts within
18 the trust fund.

19 (f) *The amount of insured export transaction liability outstanding*
20 *at any one time shall be secured by no less than a 25-percent*
21 *reserve amount of funds on deposit in the expansion fund plus any*
22 *receivables due from funds loaned from the expansion fund to*
23 *another fund in state government as directed by the Department*
24 *of Finance pursuant to a statute enacted by the Legislature,*
25 *including each of the trust fund accounts within the trust fund.*

26 (f)
27 (g) This section shall remain in effect only until January 1, 2018,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2018, deletes or extends that date.

30 SEC. 5. *Section 63089.5 of the Government Code, as amended*
31 *by Section 8 of Chapter 132 of the Statutes of 2014, is amended*
32 *to read:*

33 63089.5. (a) There is hereby continued in existence in the State
34 Treasury the California Small Business Expansion Fund. All or a
35 portion of the funds in the expansion fund may be paid out, with
36 the approval of the Department of Finance, to a financial institution
37 or financial company that will establish a trust fund and act as
38 trustee of the funds.

39 (b) The expansion fund and the trust fund shall be used for the
40 following purposes:

1 (1) To pay defaulted loan guarantee or surety bond losses, or
2 other financial product defaults or losses.

3 (2) To fund direct loans and other debt instruments.

4 (3) To pay administrative costs of corporations.

5 (4) To pay state support and administrative costs.

6 (5) To pay those costs necessary to protect a real property
7 interest in a financial product default.

8 (c) The expansion fund and trust fund are created solely for the
9 purpose of receiving state, federal, or local government moneys,
10 and other public or private moneys to make loans, guarantees, and
11 other financial products that the California Small Business Finance
12 Center and a small business financial development corporation are
13 authorized to provide.

14 (d) One or more accounts in the expansion fund and the trust
15 fund may be created by the program manager for corporations
16 participating in one or more programs authorized under this chapter
17 and Section 8684.2. Each account is a legally separate account,
18 and shall not be used to satisfy loan guarantees or other financial
19 product obligations of another corporation except when the
20 expansion fund or trust fund is shared by multiple corporations.

21 (e) The amount of guarantee liability outstanding at any one
22 time shall not exceed four times the amount of funds on deposit
23 in the expansion fund plus any receivables due from funds loaned
24 from the expansion fund to another fund in state government as
25 directed by the Department of Finance pursuant to a statute enacted
26 by the Legislature, including each of the trust fund accounts within
27 the trust fund.

28 (f) *The amount of insured export transaction liability outstanding*
29 *at any one time shall be secured by no less than a 25-percent*
30 *reserve amount of funds on deposit in the expansion fund plus any*
31 *receivables due from funds loaned from the expansion fund to*
32 *another fund in state government as directed by the Department*
33 *of Finance pursuant to a statute enacted by the Legislature,*
34 *including each of the trust fund accounts within the trust fund.*

35 (f)

36 (g) This section shall become operative on January 1, 2018.

37 SEC. 6. Article 8.5 (commencing with Section 63089.85) is
38 added to Chapter 6 of Division 1 of Title 6.7 of the Government
39 Code, to read:

1 Article 8.5. *Insurance, Coinsurance, and Other Forms of Surety*

2
3 63089.85. (a) *The bank or its delegate may utilize funds for*
4 *offering insurance or coinsurance to businesses with less than 250*
5 *employees that export or plan to export pursuant to the directives*
6 *and requirements.*

7 (b) *The amount of funds available for insurance, coinsurance,*
8 *and other forms of surety shall be determined by the directives*
9 *and requirements.*

10 (c) *The bank or its delegate shall not issue insurance,*
11 *coinsurance, and other forms of surety unless and until it*
12 *determines that all of the following conditions are satisfied:*

13 (1) *The insurance, coinsurance, and other forms of surety*
14 *assistance would not be granted by an insurer under reasonable*
15 *terms and conditions and the business has demonstrated a*
16 *reasonable prospect of repayment.*

17 (2) *The insurance will be extended exclusively to support the*
18 *export of goods, services, and agricultural commodities produced*
19 *or grown primarily in California by companies or agricultural*
20 *enterprises that have California as the principal place from which*
21 *their trade or business is directed or managed.*

22 (3) *The business has a minimum equity interest in the business*
23 *as determined by the directives and requirements.*

24 (4) *As a result of the insurance, coinsurance, and other forms*
25 *of surety instruments, the jobs generated or retained demonstrate*
26 *reasonable conformance to any directives and requirements*
27 *specifying employment criteria.*

28 (d) *The maximum direct insurance, coinsurance, and other*
29 *forms of surety instrument amount to a small business shall be set*
30 *by the directives and requirements.*

31 (e) *The bank shall establish directives and requirements for the*
32 *formation, operation, and responsibilities of an insurance review*
33 *committee, that, at a minimum, requires the following:*

34 (1) *An insurance review committee shall be comprised of at*
35 *least five or more persons, a majority of whom shall be experienced*
36 *in insurance and export finance.*

37 (2) *An insurance review committee shall expeditiously act to*
38 *accept or reject loan applications.*

39 (3) *A person who has a financial interest related to a matter*
40 *over which the insurance review committee has authority shall not*

1 *make, participate in making, or in any way attempt to influence*
2 *that matter.*

3 *(f) The bank board shall adopt collateral or security*
4 *requirements to ensure the solvency of any insurance, coinsurance,*
5 *or surety extended under this chapter and to assist in evaluating*
6 *the program authorized by this chapter.*

7 *(g) The bank may charge the applicant or financial institution*
8 *an insurance origination fee or other fee on all insurance made*
9 *by the bank or its insurance provider to defray the operating*
10 *expenses of the program. The amount of the fee shall be determined*
11 *by the directives and requirements.*

12 *63089.86. The bank may do any of the following:*

13 *(a) Act as an agent for creditworthy California growers,*
14 *manufacturers, and other exporters to sell accounts receivable*
15 *that are approved by the office and insured by the Foreign Credit*
16 *Insurance Association or an acceptable private insurer, to qualified*
17 *parties.*

18 *(b) Function as a clearinghouse for the collection and*
19 *disbursement of funds relative to those sales through the use of a*
20 *segregated bank account.*

21 *(c) Take any other related actions as may be appropriate and*
22 *necessary to facilitate the sale of export accounts receivable for*
23 *California exporters.*

24 *SEC. 7. Chapter 7 (commencing with Section 63090) is added*
25 *to Division 1 of Title 6.7 of the Government Code, to read:*

26
27 *CHAPTER 7. CALIFORNIA EXPORT FINANCE*
28

29 *63090. As used in this chapter:*

30 *(a) "California Export Finance Advisory Board" or "export*
31 *advisory board" means the California Export Finance Advisory*
32 *Board established by Section 63090.7.*

33 *(b) "California Export Finance Office" or "office" means the*
34 *entity created by Section 63090.1.*

35 *(c) "Small-size and medium-size businesses" mean firms with*
36 *less than 250 employees.*

37 *63090.1. (a) The California Export Finance Office is hereby*
38 *created within the California Small Business Finance Center,*
39 *within the bank.*

1 ***(b) The purpose of the office is to expand employment and***
2 ***income opportunities for Californians through increased exports***
3 ***of California goods, services, and agricultural commodities by***
4 ***providing actual and potential California exporters, specifically***
5 ***small- and medium-sized exporters, with information and technical***
6 ***assistance on export opportunities, exporting techniques, and***
7 ***financial assistance in support of export transactions.***

8 ***63090.2. The executive director, or his or her designee, shall***
9 ***be the director of the California Export Finance Office and shall***
10 ***administer the programs of the California Export Finance Office***
11 ***and perform any duties delegated by the bank board.***

12 ***63090.3. The executive director, or his or her designee, upon***
13 ***approval of the bank board, may do all of the following:***

14 ***(a) Contract for services.***

15 ***(b) Hold public hearings.***

16 ***(c) Call upon and reimburse for services any state agency or***
17 ***department for assistance in carrying out the objectives of this***
18 ***chapter.***

19 ***(d) Participate with government or private industry in programs***
20 ***for technical assistance, technology, transfer, or any other***
21 ***programs related to this chapter.***

22 ***(e) Undertake or commission studies on methods to increase***
23 ***financial resources to expand the exports of California goods,***
24 ***services, and agricultural commodities.***

25 ***(f) Exercise any other power as may be necessary to carry out***
26 ***the purposes of this chapter.***

27 ***(g) Provide or facilitate the provision of export finance training***
28 ***for staff and other individuals involved in export finance assistance,***
29 ***including, but not limited to, training sessions provided by the***
30 ***federal government and other public and private organizations.***

31 ***63090.4. The office may do all of the following:***

32 ***(a) Coordinate state export activities with international, federal,***
33 ***and other state entities that provide programs or services that are***
34 ***designed to provide export assistance and export-related financing.***

35 ***(b) Establish a network of contacts among public and private***
36 ***organizations that provide information, technical assistance, and***
37 ***financial support of exporting.***

38 ***(c) Assemble, publish, and disseminate information to California***
39 ***exporters on export opportunities, techniques of exporting, sources***

1 of public and private export assistance, and sources of
2 export-related financing.

3 (d) Organize, host, and participate in seminars and other forums
4 designed to disseminate information and technical assistance on
5 exporting and export-related financing to actual and potential
6 California exporters.

7 (e) Provide small-size and medium-size businesses, including
8 individual firms and agricultural enterprises, with information
9 and technical assistance relating to exporting and export financing.

10 63090.5. The office shall comply with the Bagley-Keene Open
11 Meeting Act (Article 9 (commencing with Section 11120) of
12 Chapter 1 of Part 1 of Division 3 of Title 2) and the California
13 Public Records Act (Chapter 3.5 (commencing with Section 6250)
14 of Division 7 of Title 1).

15 63090.7. (a) The California Export Finance Advisory Board
16 is established within the bank. The export advisory board shall
17 consist of 11 members as follows:

18 (1) The Secretary of Food and Agriculture, or his or her
19 designee.

20 (2) The executive director, or his or her designee.

21 (3) One individual appointed by the Governor who shall be
22 knowledgeable of, and experienced in, the exporting and export
23 needs of California agriculture.

24 (4) Three individuals appointed by the Governor and one
25 individual appointed by the Speaker of the Assembly, each of whom
26 shall be experienced in exporting, knowledgeable of the needs and
27 problems of small and entrepreneurial exporters, and actively
28 employed with an exporting firm, export trading company, or
29 export management company.

30 (5) One person appointed by the Governor and one person
31 appointed by the Senate Committee on Rules, each of whom shall
32 be experienced in export financing, knowledgeable of the export
33 financing needs and problems of small and entrepreneurial
34 exporters, and actively employed by a financial institution.

35 (6) One person appointed by the Controller and one person
36 appointed by the Treasurer, each of whom shall be an
37 accomplished credit evaluation representative experienced in
38 analyzing financial statements, including, but not limited to, loan
39 applications, and in evaluating the creditworthiness of firms that
40 are likely to seek insurance or loan guarantees from the office.

1 (b) *The members shall serve two-year terms at the pleasure of*
2 *the appointing authority. Vacancies shall be filled by the appointing*
3 *authority.*

4 (c) *Export advisory board members who are not employees of*
5 *the state shall receive the per diem authorized in Section 11564.5*
6 *for each day they attend export advisory board or export advisory*
7 *board subcommittee meetings. In addition, these members shall*
8 *be reimbursed for their expenses in accordance with the rules of*
9 *the Department of Personnel Administration when attending export*
10 *advisory board and export advisory board subcommittee meetings*
11 *and conducting export advisory board business as determined by*
12 *the export advisory board.*

13 63090.8. *The export advisory board shall do all of the*
14 *following:*

15 (a) *Elect a chair and vice chair from among its members. The*
16 *chair shall preside at meetings of the export advisory board.*

17 (b) *Advise on the export-related programs authorized by Chapter*
18 *6 (commencing with Section 63088) and this chapter.*

19 (c) *Adopt bylaws as are necessary to govern the conduct and*
20 *operation of the export advisory board.*

21 (d) *Provide for the appointment of advisory subgroups necessary*
22 *to inform and deliberate on issues of significance to the export*
23 *advisory board.*

24 (e) *Hold regularly scheduled meetings, at least quarterly, in*
25 *order to carry out the objectives and responsibilities of the export*
26 *advisory board.*

27 (f) *Issue an annual report critiquing California's export-related*
28 *programs, services, and other activities, and recommended*
29 *changes. The report shall include an evaluation of how these*
30 *activities impact all of the following:*

31 (1) *Participation of financial institutions in export financing*
32 *programs.*

33 (2) *Access of California firms to federal export financing*
34 *programs.*

35 (3) *Export volume of California firms.*

36 (4) *Economic and social benefits of exports to the state.*

37 ~~SECTION 1. Section 281 of the Harbors and Navigation Code~~
38 ~~is amended to read:~~

39 ~~281. Whenever any vessel, whether a steam vessel or sailing~~
40 ~~vessel, proceeding in one direction, meets another vessel, whether~~

1 a steam vessel or sailing vessel, proceeding in the opposite
2 direction, so that if both were to continue their respective courses
3 they would pass so near as to involve the risk of a collision, each
4 vessel shall give right rudder, so as to pass on the port side of each
5 other. This rule applies to all steam vessels and all sailing vessels
6 whether on the port or starboard tack, and whether close-hauled
7 or not, except where the circumstances of the case are such as to
8 render a departure from the rule necessary in order to avoid
9 immediate danger. It is subject to a due regard to the dangers of
10 navigation, and, as regards sailing vessels on the starboard tack
11 close-hauled, it is subject also to the keeping of such sailing vessels
12 under command.